

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-31, all of which have been rejected. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee et al. (US Application 2004/0039817, hereafter "Lee") in view of Schmidt (US 7,058,040, hereafter "Schmidt").

#### **I. REJECTION UNDER 35 U.S.C. § 103**

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82

USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that “the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art” (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

**A. The Proposed Combination of Lee and Schmidt Does Not Render Claims 1-31 Unpatentable**

The Applicant now turns to the rejection of claims 1-31 as being unpatentable over Lee, in view of Schmidt.

**A(1). Independent Claims 1, 11 and 21**

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Lee and Schmidt does not disclose or suggest at least the limitations of “allocating a processor within said

access point, said processor compatible with said determined protocol; and processing said communication signal by said allocated processor within said access point,” as recited by the Applicant in independent claim 1.

In the Office Action, the Examiner concedes that Lee does not disclose or suggest “allocating a processor within said access point, said processor compatible with said determined protocol,” as recited by the Applicant in claim 1. The Examiner then looks for support to Schmidt and states the following:

“Lee lacks what Schmidt discloses, **“allocating a processor within the access point (dedicated CPU and digital signal processor, which are in a wireless communicator device, configured to operate optimally on specific problem, see col.5, ln.38-40 and ln.51-66) the processor compatible with the determined protocol (a bank of DSPs with embedded functions ); and processing the communication signal by the allocated processor ( number of active processor is controlled depending on the application, see col.5, ln.64-67).”**

See the Office Action at page 2. The Examiner seems to rely for support on Schmidt’s disclosure of a reconfigurable processor core 150, which is located within a wireless communicator device 100, to allege that the wireless communicator device 100 is the claimed access point, and the disclosed programmable processors 151 and 153 within the processor core 150, as “allocating a processor within said access point, said processor compatible with said determined protocol,” as recited by the Applicant in claim 1.

The Applicant respectfully disagrees and points out that Schmidt discloses that the wireless communicator device 100 as a cellular phone (see Schmidt at col. 7, line 41), not as an access point. In fact, Schmidt does not even mention of an access point in the entire reference. Therefore, the Applicant maintains that Schmidt's wireless communicator device 100 is not the Applicant's claimed access point in claim 1. Likewise, Lee does not disclose the claim limitation deficiency of Schmidt.

Assuming for the sake of argument, that Schmidt's wireless communicator device 100 is an access point (which it is not), the Applicant submits that Schmidt still does not disclose "allocating a processor within said access point, said processor compatible with said determined protocol," as recited by the Applicant in claim 1. The Applicant points out that Schmidt discloses that the programmable processors 151 and 153 can be configured to operate optimally on specific problems and can include buffers on the receiving end and buffers on the transmitting end. Schmidt however does not disclose or suggest any of the programmable processors 151 and 153 is allocated to a compatible determined protocol. Likewise, Lee does not disclose the claim limitation deficiency of Schmidt.

Therefore, based on the foregoing rationale, the Applicant maintains that the combination of Lee and Schmidt does not disclose or suggest the limitation of

“allocating a processor within said access point, said processor compatible with said determined protocol,” as recited by the Applicant in claim 1.

Furthermore, with the lack of disclosure or suggestion of the above limitation of an allocated processor within said access point, the Applicant submits that the combination of Lee and Schmidt subsequently also does not disclose or suggest the limitation of “processing said communication signal by said allocated processor within said access point,” as recited by the Applicant in claim 1.

Accordingly, independent claim 1 is not rendered unpatentable by the combination of Lee and Schmidt, and is allowable. The Applicant respectfully request that the rejection of independent claim 1 under 35 U.S.C. § 103(a) be withdrawn. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**A(2). Rejection of Dependent Claims 2-7, 10, 12-17, 20, and 22-27**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 103(a) as being unpatentable over Lee in view of Schmidt has been overcome and request that the rejection be withdrawn. Additionally, claims 2-10, 12-20, and 22-31 depend directly or

indirectly from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

In addition, regarding claim 2, the Applicant submits that Lee does not disclose an allocated processor within the access point, claim 2 is therefore allowable. Likewise, claims 12 and 22 are allowable based on the same rationale in claim 2.

In addition, regarding claim 3, the Applicant submits that Lee in Fig. 1 discloses the entire AP (access point) instead of an allocated processor within the access point, claim 3 is therefore allowable. Likewise, claims 13 and 23 are allowable based on the same rationale in claim 3.

In addition, regarding claim 4-7, the Applicant submits that the same rationale in claim 3 applies, that Lee in Fig. 1 discloses the entire AP (access point) instead of an allocated processor within the access point, claims 4-7 are therefore allowable. Likewise, claims 14-17 and 24-27 are allowable based on the same rationale in claim 3.

Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-10, 12-20, and 22-31.

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**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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